

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ANGELICA GARCIA,

CASE NO. 5:12-cv-06491 EJD

Plaintiff(s),

**FIRST ORDER RE: MOTIONS IN  
LIMINE**

v.

FORTIS CAPITAL IV, LLC, et. al.,

[Docket Item No(s). 69, 83, 85, 86, 87, 89, 90,  
91, 93, 95, 96, 97, 98, 99]Defendant(s).  
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Presently before the court are certain motions in limine filed by both parties. See Docket Item Nos. 69, 83, 85, 86, 87, 89, 90, 91, 93, 95, 96, 98, 99. The court finds these particular matters suitable for decision without oral argument. Having considered the parties' moving and responding papers, the court rules as follows as to certain of Plaintiff's motions:

1. Plaintiff's first motion to exclude the testimony of Defendant's expert Brian Kleiner (Docket Item No. 69) is GRANTED.
2. Plaintiff's second motion to exclude reference to attorney's fees that may be awarded to Plaintiff in this action (Docket Item No. 90) is GRANTED.
3. Plaintiff's fourth motion to exclude reference to the availability of a bona fide error defense (Docket Item No. 95) is GRANTED.
4. Plaintiff's fifth motion to preclude Defendants from referencing or introducing any previously undisclosed documents (Docket Item No. 97) is GRANTED.

The court rules as follows as to certain of Defendants' motions:

1. Defendants' second motion to exclude evidence that Defendants do or do not have liability insurance (Docket Item No. 83) is GRANTED.
2. Defendants' fourth motion to exclude evidence of Defendants' financial condition (Docket Item No. 85) is GRANTED.
3. Defendant's fifth motion to exclude witnesses from the courtroom and instruct them not to discuss their testimony with other witnesses (Docket Item No. 86) is GRANTED. To clarify, Plaintiff and Robert Barnes are not subject to this order. In addition, the court will allow Defendants to designate one other representative of the sole remaining defendant to be present during the proceedings, if they so choose.
4. Defendants' sixth motion to exclude evidence of Plaintiff's financial condition (Docket Item No. 87) is DENIED subject to objections to specific questions or items of evidence at trial.
5. Defendants' eighth motion to exclude messages on internet comment boards (Docket Item No. 89) is GRANTED.
6. Defendants' ninth motion to exclude letters sent from Defendants' counsel (Docket Item No. 91) is GRANTED.
7. Defendants' tenth motion to exclude evidence of criminal convictions (Docket Item No. 93) is GRANTED.
8. Defendants' twelfth motion for an order establishing the authenticity and foundation for subpoenaed records (Docket Item No. 96) is GRANTED.
9. Defendants' thirteenth motion to exclude evidence that Defendants were required to record debt collection calls or were required to maintain hard copies of recordings for an indefinite period of time (Docket Item No. 98) is GRANTED. To clarify, this exclusion applies only to evidence that would require foundational expert testimony on the standard of care in the industry. Plaintiff is not precluded by this ruling from introducing evidence concerning any of Defendants' collections or recording policies.
10. Defendants' fourteenth motion to exclude (1) evidence of Plaintiff's surgery to

1 remove her spleen and portions of her pancreas, (2) her insulin deficiency or that it  
2 may cause weight gain, or (3) that Plaintiff is particularly vulnerable to stress (Docket  
3 Item No. 99) is GRANTED IN PART and DENIED IN PART. The motion is  
4 GRANTED as to items (1) and (2) above, but is DENIED as to item (3). Plaintiff  
5 may introduce evidence concerning information she received from her medical  
6 records or doctors as such information may affect her state of mind. Plaintiff may  
7 also introduce evidence about her condition during and after the telephone calls at  
8 issue in this action.

9 Rulings on Plaintiff's third motion (Docket Item No. 92) and Defendants' first, third,  
10 seventh, and eleventh motions (Docket Item Nos. 82, 84, 88, 94) are DEFERRED. The parties shall  
11 be prepared to present argument on these remaining matters at the Final Pretrial Conference.

12 **IT IS SO ORDERED.**

13  
14 Dated: May 8, 2014

  
EDWARD J. DAVILA  
United States District Judge